

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 39 – SB 134

April 25, 2017

SUMMARY OF ORIGINAL BILL: Requires written consent prior to a blood test being performed to determine the alcoholic or drug content of a driver's blood, if the officer has probable cause to believe that the operator has committed driving under the influence; vehicular assault; aggravated vehicular assault; vehicular homicide related to intoxication; or aggravated vehicular homicide. Requires a search warrant to be issued for a blood test if no written consent is obtained.

Creates a Class A misdemeanor for the operator of a vehicle to intentionally refuse, prevent, or obstruct the administration of a blood test if a lawful search warrant has been obtained and the test is lawfully administered under the provisions of the bill.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENTS (004174, 007073): Amendment 004174 deletes and replaces language of the bill without making any substantive changes to the legislation.

Amendment 007073 amends the bill as amended by amendment 004174 to add a technical clarification without making any substantive change to the legislation.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- Any increase to local expenditures to obtain the necessary search warrants is estimated to be not significant.
- It is reasonably assumed that most offenders, when presented with a search warrant, will abide by the provisions of the search warrant.
- Provisions in this legislation regarding written consent are codifying the decision in *State v. Reynolds*, 504 S.W.3d 283 (Tenn. 2016); it is estimated the Department of Safety will be required to develop written consent procedures and forms in the absence

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of the legislation. Therefore, any fiscal impact related to the procedures and forms for written consent is considered not significant.

- Further, it is assumed that the average person charged with a Class A misdemeanor for failing to comply with a search warrant will have additional charges stemming from violations from which the blood test was warranted. It is assumed that the additional Class A misdemeanor offense will not significantly impact existing local incarceration costs.
- There will not be a sufficient number of Class A misdemeanor prosecutions for state or local government to experience any significant increase in revenue or expenditures.
- The provisions of the bill as amended will not significantly impact offenses for DUI, vehicular assault, aggravated vehicular assault; vehicular homicide related to intoxication, or aggravated vehicular homicide conviction, or any incarceration costs related to such offenses, because such offenses would have occurred and been prosecuted pursuant to current law in the absence of this legislation.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in blue ink that reads "Krista M. Lee". The signature is written in a cursive, flowing style.

Krista M. Lee, Executive Director

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